

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL SANCHEZ,

Petitioner,

v.

SUPERINTENDENT, FIVE POINTS
CORRECTIONAL FACILITY,

Respondent.

Case No. 16-CV-428 (KMK) (PED)

ORDER ADOPTING R&R

KENNETH M. KARAS, District Judge:

On May 12, 2016, Petitioner Daniel Sanchez (“Petitioner”), proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, wherein he seeks habeas relief on the grounds that: (1) his July 18, 2010 statements to the police should have been suppressed because they were obtained in violation of his Fifth Amendment rights to counsel and to remain silent; and (2) he was deprived of his Sixth Amendment right to effective trial counsel based on his attorney convincing him to plead guilty. (Am. Petition (Dkt. No. 5).)

On May 23, 2018, Magistrate Judge Paul E. Davison entered a thorough Report & Recommendation (“R&R”) recommending that this Court deny the petition in its entirety. (R&R 37 (Dkt. No. 30).) In the R&R, Magistrate Judge Davison provided notice that objections to the R&R were due within 17 days, and that failure to object would preclude later appellate review of any order of judgment that will be entered. (*Id.* at 38.) No objections have been filed.

When a petitioner does not file any objections, the Court reviews an R&R for clear error.

See Rose v. Rivera, No. 08-CV-6027, 2011 WL 3874718, at *1 (S.D.N.Y. Sept. 2, 2011). The Court has reviewed the R&R and finds no error, clear or otherwise.

The Court therefore adopts the R&R in its entirety and denies Petitioner's writ of habeas corpus. Because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c)(2); *Lucidore v. N.Y. State Div. of Parole*, 209 F.3d 107, 111–12 (2d Cir. 2000). In addition, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962) (“We consider a defendant’s good faith . . . demonstrated when he seeks appellate review of any issue not frivolous.”); *Burda Media Inc. v. Blumenberg*, 731 F. Supp. 2d 321, 322–23 (S.D.N.Y. 2010) (citing *Coppedge* and noting that an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith).

The Clerk of Court is respectfully directed to enter a judgment in favor of Respondent, mail a copy of this Order to Petitioner, and to close this case.

SO ORDERED.

DATED: June 18, 2018
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE